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Attorney General of the United States

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

13 IRA DAVES, }
14 Plaintiff, }
15 v. }
16 ERIC HOLDER, JR., }
17 ATTORNEY GÉNÉRAL, }
18 Defendant. }
19 }
20 }

Case No.: CV 08-07376 CAS (AGR_x)

DEFENDANT'S NOTICE OF MOTION
AND MOTION TO DISMISS THE
FIRST AMENDED COMPLAINT, IN
FULL OR IN PART, OR, IN THE
ALTERNATIVE, TO STRIKE
SUPERFLUOUS AND IMPROPER
ALLEGATIONS

Date: October 19, 2009
Time: 10:00 a.m.
Ctrm: 5
Judge: Christina A. Snyder

22 PLEASE TAKE NOTICE that on October 19, 2009, or as soon thereafter as
23 counsel may be heard, before the Honorable Christina A. Snyder, Defendant, Eric
24 H. Holder, Jr., Attorney General, through his attorneys of record, Karen P. Hewitt, United
25 States Attorney, and Cindy M. Cipriani, Assistant U.S. Attorney, will bring on his motion
26 to dismiss the First Amended Complaint, in full or in part, or in the alternative, to strike
27 superfluous and improper allegations. This motion is made pursuant to Federal Rules of
28 Civil Procedure 12(b)(6) and 8.

1 The motion seeks a ruling that (1) dismisses Plaintiff's third (retaliation) cause of
2 action as redundant and unnecessary; (2) determines that his fourth (systemic
3 discrimination), and fifth (quid pro quo) causes of action fail to state a viable claim;
4 (3) strikes or dismisses the entire FAC without prejudice, due to serious pleading
5 deficiencies; (4) permits Plaintiff to file a new complaint, not to exceed 30 pages,
6 containing specific, concise factual assertions that provide sufficient notice without
7 resorting to repetitious, conclusory, superfluous, argumentative, and inflammatory
8 allegations; and /or (5) either strikes improper, argumentative, and repetitive allegations
9 or excuses Defendant from answering same.

10 This motion is based on this Notice, the accompanying Memorandum of Points and
11 Authorities, the files and records of this case, and the arguments presented at the hearing.

12 This motion is made following a conference between counsel pursuant to L.R. 7-3,
13 which was initiated on August 31, 2009 and occurred on September 2, 2009.

14 DATED: September 9, 2009

KAREN P. HEWITT
United States Attorney

s/Cindy Cipriani

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Attorney General Eric H. Holder, Jr.

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

IRA DAVES,) Case No.: CV 08-07376 CAS (AGRx)
Plaintiff,) CERTIFICATE OF SERVICE
v.)
ERIC H. HOLDER, JR.,)
ATTORNEY GENERAL,)
Defendant.)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of:

- 1) DEFENDANT'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, IN FULL OR IN PART, OR, IN THE ALTERNATIVE, TO STRIKE SUPERFLUOUS AND IMPROPER ALLEGATIONS (dated 09/09/09)
- 2) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, IN FULL OR IN PART, OR, IN THE ALTERNATIVE, TO STRIKE, SUPERFLUOUS AND IMPROPER ALLEGATIONS (dated 09/09/09)

on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System which electronically notifies them:

Michael L. Cohen, Esq.,
707 Wilshire Boulevard, Suite 4100
Los Angeles, CA 90017

michaellcohen@cohen-law.org

I hereby certify that I have caused to be mailed the foregoing, by the United States Postal Service, to the following non-ECF participants on this case: N/A

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 9, 2009.

s/Cindy M. Cipriani
CINDY M. CIPRIANI